IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1445 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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M S SAIYED - Petitioner
Versus
DIRECTOR OF MUNICIPALITY & 1 - Respondents

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Appearance :
NOTICE SERVED for Petitioner.
MR LB DABHI, AGP for Respondent No. 1.
NOTICE SERVED for Respondent No. 2.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 10/01/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for the direction to the respondents to consider the case of the petitioner for promotion to the post of Project Officer. The petitioner has also prayed for the declaration that the post of Project Officer is to be filled in only from the post of Community Organizer in pursuance of the interviews which may be taken in any manner, till this petition is finally heard and disposed of by this Court.

2.The petition was admitted on 12.10.1988. The Court while admitting the petition has made it very clear that admission of the matter did not mean that the petitioner has a strong prima facie case. The petition was admitted only because issue involved in the petition required some clarification by the other side by filing

affidavit-in-reply. So far affidavit-in-reply has not been filed and that was the main reason why it has become necessary to admit the matter. Even if affidavit-in-reply was filed, it would be necessary to give reasoned order for which the Court has no time. Moreover, balance of convenience also was not in favour of the petitioner. If the petitioner succeeds in the petition, he would definitely get the order with legitimate benefits which would otherwise have accrued to him. In this view of the matter, the Court held that no case was made out for interference and the interim relief was refused.

3.Despite the aforesaid order passed by this Court on 12.10.1988, till this date, no affidavit-in-reply has been filed by the respondents. It appears that the respondents are not taking seriously the orders passed by this Court.

4.The short point involved in the present petition is whether the petitioner being Community Organizer is entitled for the appointment to the post of Project Officer. The petitioner has referred to certain guidelines issued by the Ministry of Health, Govt. of India, New Delhi in the matter of mode of appointment to the post of Project Officer. It was alleged in the petition that the Central Government is giving grant to the Municipality for the said post. As per Scheme framed by the Central Government, under the head of selection of staff, for the Project Officer, it is provided that the Project Officer should have the same qualifications as for Community Organizers but should have three years' experience of active social work in a supervisory position. In due course, Project Officers should be promoted from Community Organizers. It was, therefore, contended that

the Project Officer should be promoted from Community Organizers. Instead of promoting the petitioner to the post of Project Officer, the respondents have issued advertisement for the post of Project Officer and hence, the present petition is filed by the petitioner.

5.The petition was filed by the learned advocate who was later on elevated to the Bench of this Court. Accordingly, fresh notice was issued on the petitioner. Despite service of notice, the petitioner did not remain present nor he has engaged any other advocate to pursue this matter. The Court is, therefore, of the view that the petitioner is not interested in pursuing this matter. Even otherwise, the petition is of 1987. The Court has not granted any stay at the time when the petition was filed. Pursuant to the advertisement, the Project Officer must have been appointed by the Municipality. The rule on which the petitioner

relies makes it clear that the person should be Community Organizer and he should have worked as such for three years. It appears from the letter produced at Annexure A dated 17.11.1986 that the petitioner was given a charge of Project Officer on 18.11.1986. The advertisement also makes it clear that the Project Officer should be a Graduate and should have three years experience in social welfare department or any other voluntary organization. The petitioner did not meet with this criteria and hence, the respondents have not considered his case. In any case, the advertisement was issued and applications were invited. The petitioner was not restrained from making application to the said post. It appears that instead of making application, the petitioner has moved the present petition.

6.In view of the above facts and circumstances of the case and in view of efflux of time, the

Court does not see any justification to interfere in this matter. The petition is accordingly disposed of. Rule discharged without any order as to costs.

[K.A. PUJ, J.]

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